

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

JUAN CARLOS CACERES-MEJIA

VS.

CIVIL ACTION NO. 5:16cv3-KS-MTP

J. WATSON

*Food Service Supervisor of Trinity
Service Group (Adams Correctional Center)*

ORDER

This cause came on this date to be heard upon Report and Recommendation of the United States Magistrate Judge Michael T. Parker entered herein on June 20, 2016, and Objection [10] thereto filed by Juan Carlos Caceres-Mejia. The Court has considered the same and finds that the Objection is not well taken and that the Report and Recommendation should be adopted for the following reasons:

The Complaint herein was filed on January 14, 2016, and the Report and Recommendation [8] sets forth the relevant issue, which is failure to serve summons on Defendant pursuant to Rule 4. The Objection [10] sets forth the chain of events leading up to the Show Cause Order [4] and, ultimately, to the Report and Recommendation [8], recommending that the case be dismissed. The Court has reviewed the Objection and finds that even through the date of the Objection, which is July 13, 2016, that the Plaintiff has not attempted to effectuate process in a manner that is compliant with Rule 4. Despite having been warned and given opportunities and being granted extensions, Plaintiff has failed to complete process. Rule 4 states: "If a defendant is not served within 120 days after the complaint is filed, the court - on motion or on its own after notice to the plaintiff - **must** (*emphasis added*) dismiss the action without prejudice against the defendant or order that service be made within a specified time. . .

F.R.C.P. 4(m).

The Report and Recommendation states the reasoning for the Court to move its caseload, especially when the Plaintiff has been given adequate warning and opportunity to complete process. The Court finds that the Report and Recommendation is a correct statement of the law and facts and a correct analysis in all regards and finds that the Report and Recommendation should be adopted as the finding of this Court. The Court further finds that the Objection is a rehash of excuses that this Court has heard for a period of almost four (4) months and should be rejected.

IT IS, THEREFORE, ORDERED that the Report and Recommendation be, and the same hereby is, adopted as the finding of this Court, and the Complaint is hereby dismissed without prejudice. A separate Judgment will be entered herein in accordance with this Order as required by Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED on this the 17th day of August, 2016.

s/Keith Starrett
UNITED STATES DISTRICT JUDGE